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19 COUNTY DEPARTMENT OF REGIONAL PLANNING

20 **UNITED STATES DISTRICT COURT**

21 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

22 CLINTON BROWN,

23 Plaintiff,

24 v.

25 CLARK R. TAYLOR, AICP, THE
26 LOS ANGELES COUNTY
27 DEPARTMENT OF REGIONAL
28 PLANNING,

Defendants.

Case No. 2:22-cv-09203-MEMF-KS

**DEFENDANT'S EVIDENTIARY
OBJECTIONS TO PLAINTIFF'S
STATEMENT OF DISPUTED
MATERIAL FACTS AND
EXHIBITS; [PROPOSED] ORDER**

Filed concurrently with:

- 1) *Defendant's Reply ISO Motion for
Summary Judgment; and*
- 2) *Defendant's Reply to Plaintiff's
Statement of Disputed Material
Facts*

Judge: Hon. Karen L. Stevenson

Assigned to:

Hon. Maame Ewusi-Mensah Frimpong
Courtroom "8B"

Magistrate Judge Karen L. Stevenson
Courtroom "580"

1 **DEFENDANT'S EVIDENTIARY OBJECTIONS**

2 Evidence	3 Grounds for Objections
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	1 Evidentiary Objection No. 1: Plaintiff's P1/RJN to Plaintiff's Statement of Genuine Disputes of Material Facts by Nonmoving Party. (Dkt. No. 115-2). <u>Federal Rule of Evidence ("FRE") 901</u> , lacks foundation/authentication. Plaintiff's P1/RJN is not authenticated by any affidavits, declarations, or answers to discovery. Plaintiff's P1/RJN lacks foundation and is not authenticated. <u>FRE 201</u> , P1/RJN is (1) not generally known within the Court's territorial jurisdiction and (2) can not be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. <u>FRE 1002</u> , Best evidence rule. <u>FRE 1003</u> . Evidentiary Objection No. 2: Plaintiff's P2/RJN to Plaintiff's Statement of Genuine Disputes of Material Facts by Nonmoving Party. (Dkt. No. 115-3). <u>FRE 901</u> , lacks foundation/authentication. Plaintiff's P2/RJN is not authenticated by any affidavits, declarations, or answers to discovery. Plaintiff's P2/RJN lacks foundation and is not authenticated. <u>FRE 201</u> , P2/RJN is (1) not generally known within the Court's territorial jurisdiction and (2) can not be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

1		<u>FRE 1002</u> , Best evidence rule.
2		<u>FRE 1003</u> .
3	Evidentiary Objection No. 3:	<u>FRE 901</u> , lacks foundation/authentication.
4		Plaintiff's P3/RJN is not authenticated by
5	Plaintiff's P3/RJN to Plaintiff's	any affidavits, declarations, or answers to
6	Statement of Genuine Disputes of	discovery. Plaintiff's P3/RJN lacks
7	Material Facts by Nonmoving	foundation and is not authenticated.
8	Party. (Dkt. No. 115-4).	<u>FRE 201</u> , P3/RJN is (1) not generally
9		known within the Court's territorial
10		jurisdiction and (2) can not be accurately
11		and readily determined from sources
12		whose accuracy cannot reasonably be
13		questioned.
14		<u>FRE 1002</u> , Best evidence rule.
15		<u>FRE 1003</u> .
16	Evidentiary Objection No. 4:	<u>FRE 901</u> , lacks foundation/authentication.
17		Plaintiff's P4/RJN is not authenticated by
18	Plaintiff's P4/RJN to Plaintiff's	any affidavits, declarations, or answers to
19	Statement of Genuine Disputes of	discovery. Plaintiff's P4/RJN lacks
20	Material Facts by Nonmoving	foundation and is not authenticated.
21	Party. (Dkt. No. 115-5).	<u>FRE 201</u> , P4/RJN is (1) not generally
22		known within the Court's territorial
23		jurisdiction and (2) can not be accurately
24		and readily determined from sources
25		whose accuracy cannot reasonably be
26		questioned.
27		<u>FRE 401/402</u> , Irrelevant.
28		

1		<u>FRE 1002</u> , Best evidence rule.
2		<u>FRE 1003</u> .
3	Evidentiary Objection No. 5:	<u>FRE 901</u> , lacks foundation/authentication.
4		Plaintiff's P5/RJN is not authenticated by
5	Plaintiff's P5/RJN to Plaintiff's	any affidavits, declarations, or answers to
6	Statement of Genuine Disputes of	discovery. Plaintiff's P5/RJN lacks
7	Material Facts by Nonmoving	foundation and is not authenticated.
8	Party. (Dkt. No. 115-6).	<u>FRE 201</u> , P5/RJN is (1) not generally
9		known within the Court's territorial
10		jurisdiction and (2) can not be accurately
11		and readily determined from sources
12		whose accuracy cannot reasonably be
13		questioned.
14		<u>FRE 401/402</u> , Irrelevant.
15		<u>FRE 1002</u> , Best evidence rule.
16		<u>FRE 1003</u> .
17	Evidentiary Objection No. 6:	<u>FRE 901</u> , lacks foundation/authentication.
18		Plaintiff's P6/RJN is not authenticated by
19	Plaintiff's P6/RJN to Plaintiff's	any affidavits, declarations, or answers to
20	Statement of Genuine Disputes of	discovery. Plaintiff's P6/RJN lacks
21	Material Facts by Nonmoving	foundation and is not authenticated.
22	Party. (Dkt. No. 115-7).	<u>FRE 201</u> , P6/RJN is (1) not generally
23		known within the Court's territorial
24		jurisdiction and (2) can not be accurately
25		and readily determined from sources
26		whose accuracy cannot reasonably be
27		questioned.
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1		<u>FRE 401/402</u> , Irrelevant.
2		<u>FRE 1002</u> , Best evidence rule.
3		<u>FRE 1003</u> .
4	Evidentiary Objection No. 7:	<u>FRE 901</u> , lacks foundation/authentication.
5	Plaintiff's P7/RJN to Plaintiff's	Plaintiff's P7/RJN is not authenticated by
6	Statement of Genuine Disputes of	any affidavits, declarations, or answers to
7	Material Facts by Nonmoving	discovery. Plaintiff's P7/RJN lacks
8	Party. (Dkt. No. 115-8).	foundation and is not authenticated.
9		<u>FRE 201</u> , P7/RJN is (1) not generally
10		known within the Court's territorial
11		jurisdiction and (2) can not be accurately
12		and readily determined from sources
13		whose accuracy cannot reasonably be
14		questioned.
15		<u>FRE 401/402</u> , Irrelevant.
16		<u>FRE 1002</u> , Best evidence rule.
17		<u>FRE 1003</u> .
18	Evidentiary Objection No. 8:	<u>FRE 901</u> , lacks foundation/authentication.
19	Plaintiff's P8/RJN to Plaintiff's	Plaintiff's P8/RJN is not authenticated by
20	Statement of Genuine Disputes of	any affidavits, declarations, or answers to
21	Material Facts by Nonmoving	discovery. Plaintiff's P8/RJN lacks
22	Party. (Dkt. No. 115-9).	foundation and is not authenticated.
23		<u>FRE 201</u> , P8/RJN is (1) not generally
24		known within the Court's territorial
25		jurisdiction and (2) can not be accurately
26		and readily determined from sources
27		whose accuracy cannot reasonably be
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1		questioned.
2		<u>FRE 401/402</u> , Irrelevant.
3		<u>FRE 1002</u> , Best evidence rule.
4		<u>FRE 1003</u> .
5	Evidentiary Objection No. 9:	<u>FRE 901</u> , lacks foundation/authentication.
6	Plaintiff's P9/RJN to Plaintiff's	Plaintiff's P9/RJN is not authenticated by
7	Statement of Genuine Disputes of	any affidavits, declarations, or answers to
8	Material Facts by Nonmoving	discovery. Plaintiff's P9/RJN lacks
9	Party. (Dkt. No. 115-10).	foundation and is not authenticated.
10		<u>FRE 201</u> , P9/RJN is (1) not generally
11		known within the Court's territorial
12		jurisdiction and (2) can not be accurately
13		and readily determined from sources
14		whose accuracy cannot reasonably be
15		questioned.
16		<u>FRE 401/402</u> , Irrelevant.
17		<u>FRE 1002</u> , Best evidence rule.
18		<u>FRE 1003</u> .
19	Evidentiary Objection No. 10:	<u>FRE 901</u> , lacks foundation/authentication.
20	Plaintiff's P10/RJN to Plaintiff's	Plaintiff's P10/RJN is not authenticated by
21	Statement of Genuine Disputes of	any affidavits, declarations, or answers to
22	Material Facts by Nonmoving	discovery. Plaintiff's P01/RJN lacks
23	Party. (Dkt. No. 115-11).	foundation and is not authenticated.
24		<u>FRE 201</u> , P10/RJN is (1) not generally
25		known within the Court's territorial
26		jurisdiction and (2) can not be accurately
27		and readily determined from sources
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1	whose accuracy cannot reasonably be questioned.
2	<u>FRE 1002</u> , Best evidence rule.
3	<u>FRE 1003</u> .
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5	Evidentiary Objection No. 11: "In any event, it is disputable whether the entity is a disregarded or partnership entity."
6	<u>FRE 401/402</u> , statement is vague, compound, lacks foundation misstates the evidence and is unsupported by the evidence.
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9	Plaintiff's Response to Undisputed
10	Material Fact No. 1 Cited Fact and
11	Supporting Evidence. (Dkt. No. 115
12	at 3.)
13	Evidentiary Objection No. 12: "The Plaintiff has also 'pierced the corporate veil' which in all fairness and justice must be set aside to prevent fraud and ensure equity."
14	<u>FRE 401/402</u> , statement is vague, compound, lacks foundation misstates the evidence and is unsupported by the evidence.
15	<u>FRE 701</u> , speculation.
16	<u>FRE 703</u> , improper legal conclusion.
17	Plaintiff did not plead in Plaintiff's Complaint that he is the alter ego of Atlas LLC and "Plaintiff has also pierced the corporate veil." Plaintiff's claim to have "pierced the corporate veil" on himself is without foundation, not supported by competent evidence, and is wholly conclusory. Plaintiff did not mention Atlas LLC in his complaint, nor that Atlas
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1	LLC was his Alter-Ego as he is attempting 2 to allege now and that the corporate veil 3 does not exist. Plaintiff has not alleged 4 that he is a member of Atlas LLC either. 5 Ninth Circuit precedent holds that raising a 6 claim on summary judgment that is not pled 7 in the complaint is impermissible. 8 “[W]here, as here, the complaint does not 9 include the necessary factual allegations to 10 state a claim, raising such claim in a 11 summary judgment motion is insufficient to 12 present the claim to the district 13 court.” <i>Navajo Nation v. U.S. Forest</i> 14 <i>Service</i> , 535 F.3d 1058, 1080 (9th Cir. 15 2008); <i>Wasco Prods., Inc. v. Southwall</i> 16 <i>Techs., Inc.</i> , 435 F.3d 989, 992 (9th Cir. 17 2006) (same); <i>Coleman v. Quaker Oats</i> 18 <i>Co.</i> , 232 F.3d 1271, 1291-92 (9th Cir. 19 2000) (same).
20	Evidentiary Objection No. 13: 21 "The terms of the "Partnership Grand 22 Deed" are void and the Court should 23 declare so." Plaintiff's Response to Undisputed Material Fact No. 5 Cited Fact and Supporting Evidence. (Dkt. No. 115 at 6.)
28	<u>FRE 401/402</u> , statement is vague, compound, lacks foundation misstates the evidence and is unsupported by the evidence. <u>FRE 701</u> , speculation. <u>FRE 703</u> , improper legal conclusion.

1	Evidentiary Objection No. 14: 2 "There is a genuine dispute of material 3 fact as to whether the County could 4 deny the project if it was preempted 5 by Federal law not to do so." 6 Plaintiff's Response to Undisputed 7 Material Fact No. 8 Cited Fact and 8 Supporting Evidence. (Dkt. No. 115 9 at 9.)	<u>FRE 401/402</u> , statement is vague, compound, lacks foundation misstates the evidence and is unsupported by the evidence. <u>FRE 701</u> , speculation. <u>FRE 703</u> , improper legal conclusion.
10	Evidentiary Objection No. 15: 11 "The prohibition says nothing about 12 structure-mounted-utility scale 13 facilities in SEA's." 14 Plaintiff's Response to Undisputed 15 Material Fact No. 9 Cited Fact and 16 Supporting Evidence. (Dkt. No. 115 17 at 11.)	<u>FRE 401/402</u> , statement is vague, compound, lacks foundation misstates the evidence and is unsupported by the evidence. <u>FRE 701</u> , speculation. <u>FRE 703</u> , improper legal conclusion. Plaintiff did not plead in Plaintiff's Complaint that his solar farm application was a structure-mounted-utility scale facility, instead only ground mounted utility scale solar facilities were mentioned in the Complaint. Specifically, the Complaint states Plaintiff's solar farm project at 27250 Agoura Road was rejected because " <u>Ground mounted utility</u> <u>scale</u> solar facilities are not permitted in Significant Ecological Areas as described in section 22.140.510(C)(5)(a)..."

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1 (emphasis added) (Plaintiff quoting the
2 rejection letter received by Plaintiff from
3 Defendant Clark Taylor, Regional
4 Planner.) (See ECF No. 1 at 4:12-19.)
5 Ninth Circuit precedent holds that raising a
6 claim on summary judgment that is not
7 pled in the complaint is impermissible.
8 “[W]here, as here, the complaint does not
9 include the necessary factual allegations to
10 state a claim, raising such claim in a
11 summary judgment motion is insufficient
12 to present the claim to the district
13 court.” *Navajo Nation v. U.S. Forest*
14 *Service*, 535 F.3d 1058, 1080 (9th Cir.
15 2008); *Wasco Prods., Inc. v. Southwall*
16 *Techs., Inc.*, 435 F.3d 989, 992 (9th Cir.
17 2006) (same); *Coleman v. Quaker Oats*
18 *Co.*, 232 F.3d 1271, 1291-92 (9th Cir.
19 2000) (same).

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21 DATED: January 17, 2024

HURRELL CANTRALL LLP

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By: */s/ Jonathan Fang*

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THOMAS C. HURRELL
JONATHAN FANG

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